

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION

APRIL FREEMAN,)	
)	
Plaintiff,)	Cause No. _____
)	
v.)	
)	
ROQUE’S, INC. d/b/a)	
CEBOLLA’S MEXICAN GRILL)	
)	
Defendant.)	

COMPLAINT

COMES NOW the Plaintiff, April Freeman (“Freeman”), by counsel, and for her causes of action against the Defendant, Roque’s, Inc. d/b/a Cebolla’s Mexican Grill (“Cebolla’s”), states and alleges as follows:

I. INTRODUCTION

1. This is an action brought by Freeman for sexual harassment and retaliation under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, et seq. (“Title VII”). Freeman began work at Cebolla’s on or about May 2018 as a full-time worker at the restaurant located at 5930 W. Jefferson Blvd., Fort Wayne, Indiana. Shortly after her employment began, Freeman started being harassed by Cebolla’s manager, Alejardo (“Alejardo”) and her co-workers on a regular basis. Freeman reported to her manager, Hibeto (“Hibeto”), that Alejardo (“Alejardo”), was making fun of the way she speaks and making jokes at her expense causing her co-workers to laugh and tease her. After asking Alejardo and her co-workers to stop, this conduct continued.

Beginning on or about June of 2018, Freeman was sexually harassed by her co-workers and members of management with comments like “do you want to be with me”, and “let’s have babies together.” When Freeman reported to her manager that her co-workers were making inappropriate

comments, the manager told her that she must have given them permission to talk to her like that. When Freeman complained to the owner, Canuto, about the comments, he told her he would take care of them, however, the unlawful conduct continued.

In February, 2019, Freeman ordered Mexican eggs at work. Cebolla's manager Hibeto and a co-worker made sexual jokes and teased her about wanting Mexican genitals. When Freeman again complained to the owner, Canuto, about the comments he laughed and the sexual comments continued. On or about April 12, 2019, Freeman filed a Charge of Discrimination with the Equal Employment Opportunity Commission. ("EEOC"). After filing her Charge, the way was she treated by her managers changed dramatically. She was retaliated against as her co-workers would not seat people in her section so she made less money and Cebolla's management cut her hours of work. The unlawful harassment continued and on or about August 14, 2019 Freeman quit due to anxiety, fear, stress, trouble eating and sleeping, and the humility she was continuing to be put through.

As stated above, on or about April 12, 2019, Freeman filed a Charge of Discrimination with the Fort Wayne Metropolitan Human Relations Commission and also dual filed same with the EEOC, a copy of which is attached to this Complaint as Exhibit 1. Freeman's Charge (Exhibit 1 hereto) was filed on or about April 12, 2019. Freeman's counsel, Theisen & Associates, LLC, entered their Appearance (Exhibit 2 hereto) on her behalf on April 17, 2020. For months, Freeman heard nothing from the EEOC. Beginning on or about March 2020, Freemans's counsel began to make calls to the EEOC inquiring as to the status of her Charge and requesting a Notice of Suit Rights. The EEOC failed to respond to the numerous telephone calls. On or about April 7, 2020, Freeman's lawyers sent a letter (Exhibit 3 hereto) to the EEOC again requesting her Notice of Suit Rights. Again, Theisen's office followed the letter up with several phone calls to the EEOC and again the EEOC failed to respond. By letter dated December 14, 2020 (Exhibit 4 hereto) Theisen's office sent another written request to the EEOC requesting a Notice of Suit Rights. The EEOC

responded by its email of December 17, 2020 (Exhibit 5 hereto) explaining that a Notice of Suit Rights (Exhibit 6 hereto) had been issued on or about July 23, 2020 but the EEOC mistakenly did not send a copy to Freeman's counsel. Freeman's lawyers checked with Freeman and she indicates she never received a Notice of Suit Rights from the EEOC. Looking further into the matter, it appears the address to which the EEOC may have sent the Notice of Suit Rights does not contain her apartment number. Freeman contends that due to the admitted failure of the EEOC to notify her counsel that a Notice of Suit Rights was issued, she should not be charged with a failure to timely file this Complaint.

Freeman seeks all damages available to her including, but not limited to back pay, front pay, compensatory damages, punitive damages, legal fees and costs.

II. PARTIES

2. Freeman is an individual citizen and resident of Angola, Indiana.

3. Roque's Inc. d/b/a Cebolla's Mexican Grill is a corporation organized and existing under and by virtue of the laws of the State of Indiana with its principal place of business located at 236 Fernhill Avenue, Fort Wayne, Indiana 46805, and which operates a restaurant located at 5930 W. Jefferson Blvd., Fort Wayne, Indiana, 46804.

III. JURISDICTION AND VENUE

4. This Court has federal question jurisdiction by virtue of 28 U.S.C. § 1331 with respect to the Title VII and retaliation claims, in addition to the federal court jurisdiction conferred by Title VII, 42 U.S.C. § 2000e-5(f)(3). This Court is the proper venue pursuant to 28 U.S.C. § 1391 as Cebolla's operates a Cebolla's restaurant in Fort Wayne, and Freeman worked at that location and resides in Fort Wayne, Indiana.

IV. FACTS

5. Freeman incorporates by reference paragraphs 1-4 of her Complaint as if same were fully set forth herein.

6. Beginning on or about May, 2018, Freeman was employed by Cebolla's at its facility located at 5930 W. Jefferson Blvd., Fort Wayne, Indiana, as a full-time worker until she quit on or about August 14, 2019.

7. Freeman was subjected to repeated unlawful sexual harassment from the male Manager, Alejardo, Manager Hibeto, and co-workers.

8. Freeman complained about Alejardo's sexual harassment to her Manager, Hibeto, and the owner, Canuto, but nothing was done to stop it.

9. On or about June 2018, when Freeman complained to Cebolla's Owner Canuto about Alejardo, Hibeto and co-workers' conduct she was told "you must have given them permission to talk to you like that."

10. After complaining to the Cebolla's owner, Canuto, about Alejardo and Hibeto's and her co-workers' misconduct, and with nothing having been done by Cebolla's management to stop the misconduct, and after filing her Charge of Discrimination on or about April 12, 2019 and being retaliated against by the Company for having done so, Freeman, on or about August 14, 2019, quit her job due to anxiety, fear, stress, trouble eating and sleeping, and the humility she was continuing to be put through.

11. As a direct result of the discrimination against her, Freeman has suffered damages including lost pay, lost benefits, and emotional distress.

V. STATEMENT OF CLAIMS

**COUNT I
SEX DISCRIMINATION**

12. Freeman incorporates by reference paragraphs 1-11 of her Complaint as if same were fully set forth herein.

13. Cebolla's has discriminated against Freeman on account of her sex in violation of Title VII.

14. As a result of the unlawful discrimination, Freeman has suffered damages.

**COUNT II
RETALIATION**

15. Freeman incorporates by reference paragraphs 1 – 14 of her Complaint as if same were fully set forth herein.

16. Cebolla's has retaliated against Freeman on account of her filing the Charge of Discrimination in violation of Title VII.

17. As a result of the unlawful retaliation Freeman has suffered damages.

VI. PRAYER FOR RELIEF

WHEREFORE, Freeman prays for judgment in her favor and for the following relief:

- a) back pay and benefits;
- b) front pay and benefits;
- c) compensatory damages;
- d) punitive damages;
- e) legal fees;
- f) costs of this action; and
- g) all other relief appropriate under the circumstances.

DEMAND FOR JURY TRIAL

Plaintiff, April Freeman, hereby demands a trial by jury as to all issues so triable.

Respectfully Submitted,

THEISEN & ASSOCIATES, LLC

s/John C. Theisen

John C. Theisen (#549-02)

Nathaniel O. Hubley (#28609-64)

810 South Calhoun Street, Suite 200

Fort Wayne, IN 46802

Telephone: (260) 422-4255

Fax: (260) 422-4245

Attorneys for Plaintiff